



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/167280

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 13, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Sauk County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on September 8, 2015, at Baraboo, Wisconsin.

The issue for determination is whether the Department correctly denied the petitioner's May 2015 Institutional/Long-Term Care MA application due to excess assets.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED] ES Spec.  
Sauk County Department of Human Services  
505 Broadway, 4th Floor  
P.O. Box 29  
Baraboo, WI 53913

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County. She has a community spouse,  
[REDACTED]

2. The petitioner entered a hospital on December 2, 2014, and was later discharged to a nursing home. She left the nursing home on April 10, 2015.
3. The petitioner desires Institutional MA coverage for April 1 – 10, 2015. A retroactive Institutional/Long-Term Care MA application was filed on the petitioner's behalf on May 12, 2015, along with an asset assessment request and some asset verification. *See*, Exhibit 4. On May 20, 2015, the county agency requested additional asset verification regarding ownership of the 195 Series EE U.S. savings bonds (total value of \$68,770.88) listed as assets.
4. The savings bonds were originally purchased with the petitioner and her husband as co-owners. On June 4, 2015, the couple signed and submitted paperwork, a *Request to Reissue United States Savings Bonds*, to the Treasury Department via their local bank, requesting that all of the savings bonds be re-issued in [REDACTED]'s name only. *See*, Exhibit 3. Petitioner's attorney responded to the above verification request with the *Request* copy in June, prior to denial.
5. On June 15, 2015, the Department issued written notice of denial of the MA application. The basis for denial was excess assets. The \$68,770.88 in savings bonds were included as counted assets. *See*, Exhibit 2.
6. The local agency and the petitioner's representative maintained contact regarding the verification problem with the application. On June 16, agency worker [REDACTED] emailed the representative's office and stated that the bond verification submitted was inadequate. She suggested a type of documentation from the local bank, or a copy of the re-titled bonds. The petitioner no longer had physical possession of any bonds at that time. On June 23, the representative forwarded via email, a Treasury Department email stating that Treasury lacked the staff/ability to confirm the title on 195 bonds at that time. Further, petitioner was informed that it might take Treasury six to twelve weeks to perform the conversion, and the representative passed this information along to the agency on approximately June 17.
7. On August 10, 2015, the petitioner submitted satisfactory verification to the county agency from the Treasury Department showing that the U.S. savings bonds had all been re-titled in [REDACTED]'s name only.

### **DISCUSSION**

An applicant for Institutional/Elderly-Blind-Disabled MA has to satisfy nonfinancial and financial tests to be found eligible. The petitioner has passed the nonfinancial tests. The agency has concluded that she did not pass the asset test in July 2014. A single person cannot have nonexempt assets exceeding \$2,000. Wis. Stat. §49.47(4)(b)3g; *Medicaid Eligibility Handbook (MEH)*, § 39.4.1, available at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. A married couple may have nonexempt assets totaling \$3,000. A married couple with a spouse in the community may have higher assets, but the assets in the institutionalized person's name that exceed \$2,000 must be transferred over to the spouse within one year. *MEH*, § 18.4.6. There is no dispute that this couple's assets exceeded \$3,000 in April and May, so use of community spouse principles are critical for this application.

As part of the process for an Institutional MA application with a community spouse, the agency must perform an asset assessment. *MEH*, § 18.4.2. If the total countable assets of the couple are \$102,000 or less, the couple may own nonexempt assets totaling up to \$52,000, and still have the institutionalized spouse be MA-eligible. For a couple with assets between \$103,000 and \$240,440, they may own nonexempt assets totaling half of their countable total. That figure applies in this case, and that number was \$120,677.46. The available assets were the bonds, a checking account, a \$113.76 money market account, and \$45,857 in life insurance cash values. The institutionalized spouse then has one year in which to transfer assets exceeding \$2,000 in her name over to her community spouse.

In this case, the agency stated that it was unable to perform an asset assessment because it did not timely receive verification of ownership of the savings bonds that the petitioner declared on her MA application. The *MEH* instructs that the applicant:

... must document ownership interest in and the value of any available assets the couple had at the time of his or her first period of continuous institutionalization. The same documentation procedures are used as when an application is filed (see [Section 20.1 Verification Introduction](#)).

*MEH*, § 18.4.2. The verification policy then includes this language:

### **20.1.2 Documentation**

Documentation is a method by which you accomplish verification. Case comments in **CWW** provide documentation, including worker notes regarding collateral contacts, viewing documents, home visits, etc. Include enough data to describe the nature and source of information if follow up is needed.

...

### **20.1.3 Verification Receipt Date**

The verification receipt date is the day verification is delivered to the appropriate **IM** agency or the next business day if verification is delivered after the agency's regularly scheduled business hours. IM agencies must stamp the receipt date on each piece of verification provided.

...

### **20.1.4 Verification Rules**

1. Avoid over-verification (requiring excessive pieces of evidence for any one item or requesting verification that is not needed to determine eligibility). ...

The member has primary responsibility for providing verification and resolving questionable information. However, the IM worker must use all available data exchanges to verify information rather than requiring the **applicant** to provide it.

Assist the member in obtaining verification if he or she requests help or has difficulty in obtaining it.

Use the best information available to process the application or change within the time limit and issue benefits when the following two conditions exist:

1. The applicant/member does not have the power to produce verification, and
2. Information is not obtainable timely even with your assistance.

Do not deny eligibility in this situation, but continue in your attempts to obtain verification. When you have received the verification, you may need to adjust or recover benefits based on the new information. Explain this to the applicant/member when requesting verification.

*MEH*, § 20.1.2 - .4.

Here, the petitioner supplied partial verification to the agency on June 4, in the form of the *Request to Reissue United States Savings Bonds*, a form certified by a bank employee. Most importantly, the petitioner's representative did advise the agency by the date of denial that the representative was encountering difficulty in verifying the savings bonds. This should have prompted the agency to extend the time limit until the verification was received (August). The representative did not lose contact with the agency worker while the protracted verification procurement was occurring. Thus, I will remand the matter for the agency to consider the August verification in completing an asset assessment and re-determining the May 12, 2015 MA application.

### **CONCLUSIONS OF LAW**

1. The petitioner was unable to timely provide requested verification of savings bonds, and timely advised the county agency of the inability to timely supply verification.
2. The agency shall consider the savings bond verification supplied in August 2015 in making an asset assessment for the petitioner.

**THEREFORE, it is**

### **ORDERED**

That the petition is *remanded* to the agency with instructions to (1) perform an asset assessment for the petitioner, taking into consideration the verification supplied in August 2015, and (2) re-determine the petitioner's MA eligibility pursuant to the May 2015 application, within 10 days of the date of this Decision.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

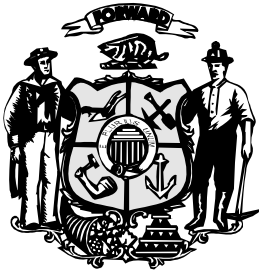
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 9th day of October, 2015

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\sNancy J. Gagnon  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 9, 2015.

Sauk County Department of Human Services  
Division of Health Care Access and Accountability  
Attorney Brenda Haskins